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March 1, 2016

Via Electronic Filing

Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
Brooklyn Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: European Community, et al. v. RJR Nabisco, Inc., et al.
Case number: 02 Civ. 5771 NGG/VVP

Dear Judge Garaufis:

Pursuant to Rules 41(a)(2) and 1 of the Federal Rules of Civil Procedure, plaintiffs respectfully request that this Court "so order" this letter by which plaintiffs stipulate that they voluntarily waive plaintiffs' damages claims for domestic injuries under 18 U.S.C. § 1964(c), consistent with the attached letter to the United States Supreme Court. *See Wakefield v. Northern Telecom*, 769 F.2d 109, 114 (2d Cir. 1985) ("trial court has considerable discretion in deciding whether to allow a withdrawal of a claim . . ."). This stipulation should be approved because defendants will not be prejudiced; defendants have not answered the complaint or expended resources on

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discovery or trial; good cause exists for the partial dismissal (see attached letter); plaintiffs consent to dismissal of the specific damages claim with prejudice; and plaintiffs' request has been made at the earliest possible time, consistent with clients' direct instructions of February 29, 2016. See *Catanzano v. Wing*, 277 F.3d 99, 109 (2d Cir. 2001). Plaintiffs acknowledge that this Court has entered a stay in this case pending the outcome of appellate proceedings in the Supreme Court, and request that this Court lift the stay for the limited purpose of approving the above stipulation.

Very truly yours,



Kevin A. Malone

KAM/hmp

Attachment

CC: Counsel via electronic filing

SO ORDERED:

U.S.D.J.